

**COMPLAINT INVESTIGATION
CLARK COUNTY SCHOOL DISTRICT
(#CL112608)**

INTRODUCTION

On 11/26/08, the Nevada Superintendent of Public Instruction received a complaint dated 11/21/08 from a parent alleging violations in the special education program of a student with disabilities attending Clark County School District (CCSD). An investigation team was appointed to examine the allegation that the CCSD did not implement the student's individualized educational program (IEP) and behavior intervention plan (behavior plan).

The parent also made an allegation that the district had failed to hold an IEP meeting after the parent requested one in late August. This allegation had been raised in a prior complaint, #CL102308. That allegation was investigated by the prior complaint investigation team and a report issued on 1/2/09. That report is binding and therefore the allegation will not be addressed again in this complaint report.

In addition, the parent made an allegation concerning the student being bullied at school. The parent was notified that the Nevada Department of Education (NDE) did not have jurisdiction through the special education complaint process to investigate this allegation and that the responsibility to investigate the allegation fell to the jurisdiction of the district. The parent was provided with the local contact person at the district to pursue this allegation.

The parent, in discussion with the investigation team, raised allegations that CCSD failed to implement an IEP (11/26/08 IEP) and behavior plan (12/1/08 behavior plan), in addition to alleging that the 5/20/08 IEP and behavior plan had not been implemented. This complaint investigation team does not have jurisdiction over allegations raised subsequent to the date of the complaint and therefore the allegations raised with respect to the 11/26/08 IEP and 12/1/08 behavior plan were not investigated in this report. The complainant may wish to file a separate complaint for these issues.

COMPLAINT ISSUES

The allegation articulated in the complaint, and further clarified by a review of the documents and interviews, raised the following issue under the jurisdiction of the NDE:

Issue 1: Whether CCSD complied with state regulations to implement the student's 5/20/08 IEP with regard to the behavior intervention plan, specifically any obligations to notify the parents when the student displayed inappropriate social behaviors or failed to turn in schoolwork.

PERSONS INTERVIEWED

The investigation team interviewed the following persons:

- Parent
- Principal
- School counselor (counselor)
- Dean
- 2007/2008 special education facilitator (previous facilitator)
- 2008/2009 special education facilitator (current facilitator)
- Teacher of record (TOR) from 5/20/08 through 10/7/08 (previous TOR)
- TOR from 10/7/08 through present (current TOR)
- Compliance monitor

DOCUMENTS REVIEWED

The documents reviewed by the investigation team included the following:

1. 5/20/08 IEP
2. 5/20/08 behavior plan
3. 10/22/08 letter from CCSD Chief of Staff to parent
4. 12/15/08 parent email
5. Student's status record dated 10/23/07 through 1/13/09
6. Student Progress Reports dated 6/03/08, 11/3/08 and 1/9/09
7. Student Attendance Records for 2007/2008 and 2008/2009 school year
8. School calendar for 2007/2008 and 2008/2009

The investigation team also reviewed the following material:

- Nevada Administrative Code (NAC), Chapter 388
- Individuals with Disabilities Education Act (IDEA) Regulations, 34 CFR Part 300

FINDINGS OF FACT

This investigation involved a middle school special education student with autism identified as Asperger's disorder. A review of documents, as well as interviews with the parent, principal, counselor, dean, previous TOR, current TOR, previous facilitator, current facilitator and compliance monitor revealed the following facts.

The 5/20/08 IEP revealed that the student, when frustrated, displayed inappropriate social behaviors at school such as making pig noises and rolling on the floor. In addition, the student displayed defiant behaviors such as calling the teachers names, being argumentative and refusing to participate in class.

The student's 5/20/08 IEP included, under Supplementary Aids and Services, the requirement that the 5/20/08 behavior plan would be followed throughout the school day in all school settings. The 5/20/08 behavior plan included a requirement that the TOR be called to try to de-brief the student if argumentative behaviors, verbal outbursts and other defiant behaviors escalated. The previous TOR reported that "de-brief" referred to helping the student regain control of the student's behavior. The 5/20/08 behavior plan also required that if the student were unable to regain control of the student's defiant behavior after the TOR attempted to de-brief the student, the student would be referred to the counselor or dean. In addition the 5/20/08 behavior plan required that the parents were to be notified if the student was referred to the counselor or dean in the situation described above.

The previous TOR, the current TOR, the previous facilitator, the current facilitator, the dean and the counselor reported that between 5/20/08 and 11/21/08 in all instances where the student displayed defiant or other inappropriate social behaviors the student regained control of the student's behavior either through interventions of the regular classroom teachers or through the interventions of the TOR. The staff also reported that in these situations, because the student regained control of the student's behavior and was not referred to the dean or counselor, they did not notify the parent of the incidents.

The 5/20/08 IEP also required that the student's progress be reported quarterly with district report cards and with specialized progress reports. There was no requirement in the 5/20/08 IEP or 5/20/08 behavior plan for district staff to notify the parents each day the student failed to complete assignments. The principal and the dean reported that all parents in the school, including the student's parents, have 24 hour a day access to a district website that gives them information about their child's assignments, including missing assignments. The information is updated weekly. The parent reported to the

investigation team that they had accessed the district website to discover the student had missed school assignments.

CONCLUSIONS OF LAW AND REASONS

Issue 1: Whether CCSD complied with state regulations to implement the student's 5/20/08 IEP with regard to the behavior intervention plan, specifically any obligations to notify the parents when the student displayed inappropriate social behaviors or failed to turn in schoolwork.

This complaint concerned an allegation that the district had failed to implement the student's 5/20/08 IEP with regard to the 5/20/08 behavior plan. Specifically, the parent alleged that the behavior plan required that parents be notified when the student displayed inappropriate social behaviors or failed to turn in school work, and that the school had not implemented these requirements.

State regulations at NAC §388.281(6)(g) require that the school district shall: "Provide the services and instruction deemed necessary for the pupil by the [IEP] committee ...".

In this case, the district was required to implement the 5/20/08 IEP. The 5/20/08 IEP required the 5/20/08 behavior plan be followed. The 5/20/08 behavior plan only required the district to notify the parent if the student was unable to regain control of the student's behavior and therefore had been referred to the dean or counselor.

During the time period covered by this complaint, the interventions of the teachers or the previous and current TOR were always successful in assisting the student to regain control of inappropriate behaviors. Therefore there was no need to refer the student to the counselor or dean and no requirement to report the behaviors to the parent in order to implement the 5/20/08 IEP.

Further, there was no requirement in the 5/20/08 IEP or 5/20/08 behavior plan to notify the parents each day that the student failed to complete a school assignment. The investigation team notes that the parents were able to access information regarding completion of assignments, which was updated weekly on the district website.

The district met its obligation to implement the 5/20/08 IEP and the 5/20/08 behavior plan with regard to its obligations to notify the parents of the student's behavior and there was no requirement to notify the parents each day of the student's failure to complete school assignments.

Therefore, the investigation team concluded that the CCSD complied with state regulations to implement the student's 5/20/08 IEP with regard to the behavior plan, specifically any obligations to notify the parents when the student displayed inappropriate social behaviors or failed to turn in schoolwork.